

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM RICHLINE	:	CIVIL ACTION
	:	
v.	:	
	:	
MICHAEL J. ASTRUE	:	NO. 12-4531

ORDER

AND NOW, this 20th day of September, 2013, IT IS HEREBY ORDERED that after careful and independent review of the Report and Recommendation ("R&R") of Magistrate Judge Thomas J. Rueter, and the plaintiff's objections to the R&R, and after review of the original briefs filed by the parties, and a telephonic oral argument held on the record on September 19, 2013, IT IS HEREBY ORDERED that the R&R is adopted except for the discussion of the plaintiff's argument that the Administrative Law Judge ("ALJ") did not address the testimony of the plaintiff and his mother with respect to the time needed at work take care of his diabetes. The Court will remand the case to the Commissioner of Social Security for further proceedings consistent with this order.

The Court's concern that it articulated in the telephonic oral argument is that the ALJ did not find the testimony of the plaintiff credible on this issue but did not explain why. Apparently, the ALJ concluded that it was unreasonable to think that the plaintiff would have to spend as much time during the work day dealing with his diabetic needs. The Court cannot tell why the ALJ concluded that it was not reasonable. As the Court understands it, this specific issue is

not dealt with in any doctors' reports. No one has opined that the nature of the plaintiff's diabetic condition would not necessitate the activities described by the plaintiff in caring for his needs.

Because the vocational expert said that if, indeed, this testimony had been found credible, there were no jobs that the plaintiff could do, the Court will remand this matter for further consideration of this issue.

BY THE COURT:

/s/ Mary A. McLaughlin
MARY A. McLAUGHLIN, J.